

REMARKS

Claims 1-23 are under examination.

Applicants are hereby affirming the provisional election, made on June 3, 2004, to prosecute Group I (claims 1-12 and 18).

Claims 13-17 and 19-23 have been cancelled as being drawn to a non-elected invention. Applicants reserve the right to file divisional applications on all non-elected subject matter of the instant application.

Claims 7-11 have been cancelled. Claims 1-4, and 12 have been amended.

Objections

Claims 1-12 and 18 were objected on the grounds that the claims are drawn to improper Markush group.

Claims 7-11 have been cancelled. Claims 1-4, and 12 have been amended to conform with the scope of the elected claims. The claimed subject matter is amended to specifically claim compounds of formula (I) wherein X is CH; Y is CH; and L is -C(O)N(R₃)-. Applicants respectfully submit that the objection is now moot in view of the amendment and request its withdrawal.

Claims 4-6, 8, and 11 are objected to as being dependent upon a rejected base claim. Claim 4 depends on claim 3, which has been amended. Claims 5 and 6 are independent claims. Claims 8 and 11 have been cancelled.

Applicants respectfully submit that with the forgoing amendments and deletion, all objections have been properly addressed and respectfully request their withdrawal.

Rejections under 35 U.S.C. § 102.

Claims 1-13 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Doyle et al. (Reference A). Applicants respectfully disagree. The legal standard for anticipation is that a claim is anticipated only when a single prior art reference discloses each and every limitation in the claim. Reference A discloses a compound wherein the amino group of the -C(O)NH- moiety is attached to a tricyclic ring (page 17, first

column, lines 48 and 49, as cited by the examiner). The instant invention discloses compounds of formula (I) wherein only monocyclic rings are attached to both sides of the $-C(O)NH-$ moiety. Accordingly, Applicants respectfully submit that Reference A does not anticipate the instant claims and respectfully request the withdrawal of the rejection.

Claims 1-3, 7, and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Glaxo Group Limited (Reference N). Reference N discloses a genus and a compound of formula (I) wherein R_3 is piperazine. Claims 1-3 have been amended to include compounds of formula (I) wherein R_1 (which is the equivalent to R_3 in Reference N) is hydrogen, alkoxy, alkyl, aryloxy, haloalkoxy, haloalkyl or halogen only. Claim 7 has been cancelled. Applicants respectfully submit that in view of the amendment the rejection of claims 1-3, 7, and 18 are rejected under 35 U.S.C. § 102(b) is overcome.

Claims 1-3, 7 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rotta Research Laboratorium (Reference O). Reference O discloses a compound of formula (I) wherein the group corresponding to position R_2 in the instant application is tetrazole (page 2, lines 3-4, as cited by the examiner). Claims 1-3 have been amended to include compound wherein R_2 is hydrogen, alkoxy, alkyl, haloalkoxy, haloalkyl or halogen. Claim 7 has been cancelled. Applicants respectfully submit that the rejection is overcome in view of this amendment.

Claims, 1, 12 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Millennium Pharmaceuticals (Reference P). Reference P discloses a compound of formula (I) wherein the group corresponding to position R_2 in the instant application is phenoxy (page 49 and 50, line 2 as cited by the examiner). Claim 1 has been amended to include compounds of formula (I) wherein R_2 is hydrogen, alkoxy, alkyl, haloalkoxy, haloalkyl, or halogen only. In view of this amendment, applicants respectfully submit that the rejection of claims, 1, 12 and 18 under 35 U.S.C. § 102(b) is overcome.

Claims 1, 3, and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Shionogi and Co., Ltd (Reference Q). Reference Q discloses a compound of formula (I) wherein the group corresponding to A in the instant application is thiadiazolyl (compound Ib-23 on page 20, second column as cited by the examiner). Claims 1 and 3 have been amended to include compounds of formula (I) wherein A is limited to aryl, imidazolyl, isoxazolyl, isothiazolyl, oxadiazolyl, oxazolyl, pyridinyl, pyridazinyl,

pyrimidinyl, pyrazinyl, pyrazolyl, pyrrolyl, thiazolyl or thienyl. Support of this amendment can be found on page 9, lines 29, and page 10, line 1 of the specification. In view of this amendment applicants respectfully submit that this rejection is overcome.

Claims 1-3, 9, 10 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Novo Nordisk A/S (Reference R). Reference R discloses of formula (I) wherein the group corresponding to A in the instant application is tetrazolyl (examples 502 and 505 as cited by the examiner). Claims 1-3 have been amended to include compounds of formula (I) wherein A is limited to aryl, imidazolyl, isoxazolyl, isothiazolyl, oxadiazolyl, oxazolyl, pyridinyl, pyridazinyl, pyrimidinyl, pyrazinyl, pyrazolyl, pyrrolyl, thiazolyl or thienyl. Claims 9 and 10 have been cancelled. Applicants respectfully submit that in view of this amendment, the rejection is now moot.

Claims 1 and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by Basha et al (Reference U). Reference U discloses a compound of formula (I) wherein the equivalents to L and R₃ in the instant application are -C(O)N(R₃)- and n-butyl, respectively. Applicants have amended claim 1 has been amended to include compounds of formula (I) wherein L is -C(O)N(R₃)- and R₃ is hydrogen. Accordingly, Applicants respectfully submit that in view of this amendment the rejection is overcome.

Claims 1-3 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Fujisawa Pharmaceutical Co., Ltd (Reference V). Reference V discloses compounds of formula (I) wherein the equivalent to R₁ or R₂ in the instant application, is heterocycle. Claims 1-3 have been amended to include compounds of formula (1) wherein R₁ is hydrogen, alkoxyl, alkyl, aryloxy, haloalkoxy, haloalkyl or halogen and R₂ is hydrogen, alkoxyl, alkyl, haloalkoxy, haloalkyl or halogen. Accordingly, Applicants respectfully submit that in view of the amendment this rejection is overcome.

Conclusions

Applicants respectfully believe that the application is in condition for allowance and respectfully request that the Examiner withdraws all outstanding rejections and passes this application to allowance.

Should the Examiner have any concerns regarding the above, she is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,
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A handwritten signature in black ink, appearing to read 'Gabryleda Ferrari-Dileo', is written over a horizontal line.

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